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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,478	07/18/2003	Steven D. Joder	I-23428	4551
7590 02/11/2008				
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EXAMINER				
MALHOTRA, SANJEEV				
ART UNIT		PAPER NUMBER		
3694				
MAIL DATE		DELIVERY MODE		
02/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/623,478

**Applicant(s)**

JODER ET AL.

**Examiner**

SANJEEV MALHOTRA

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/ISD)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Defn of "gathering" from M-W dictionary.



## **DETAILED ACTION**

1. This Office Action is in response to the Applicant's remarks/ arguments filed on November 23<sup>rd</sup>, 2007. This application is titled: "Method, Apparatus and System for Quality Performance Evaluation of a Supplier Base", and was originally filed on July 18, 2003. Claims 1-16 are currently pending in this application.

### ***Drawings Objections***

2. The request for annotated drawings is hereby withdrawn in view of the remarks of 23<sup>rd</sup> November, 2007 submitted by the Applicant.

### ***Abstract Objections***

3. The Abstract of the disclosure is objected to because of an error in line 5 of currently recited as: "some of all of which may be incompatible." It should be correctly read as follows: "some or all of which may be incompatible."

Correction is required. See MPEP § 608.01(b).

### ***Specification Objections***

4. The Specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of atleast the following is required:

(a) generating information

- (b) gathering data
- (c) storing data
- (d) storing the gathered data
- (e) converting data
- (f) converting the stored data
- (g) utilizing the single database

Alternatively, the Applicant can provide the citation (page number and line number) for the above shown phrases in their Specification to show support for these phrases within the claimed subject matter.

### ***Priority Date Claim Objections***

5. This application was filed on July 18, 2003 and it is a CONTINUATION of an international PCT application filed on January 18, 2002, and the aforesaid international PCT application claims priority from three (3) US provisional applications filed in the year 2001, with the earliest one going as far back as January 18, 2001 (#60/262,867). The Examiner clarifies that arguments on priority date claim are moot at this point only in so far as the prior art references (US Pub. No. 0082891 by McKay et al. was filed on December 27, 2000, and Huff's US Patent No. 6,760,731 is claiming priority from March 15, 2000, and Zhao's US Patent No. 6,081,840 was filed on October 14, 1997) that are used in rejection of the current application's claims under 35 USC 103(a) and these references precede the priority date (January 18, 2001) of the Applicant's provisional application '867.

Additionally, Examiner states for the record that based on review of the three provisional applications upon which the Applicant claims priority, it is deemed that all 3 of the said provisional applications do not have support for limitations of Claim 1 for "converting" data, and its dependent claims, including their provisional application '867, and thus this application will have priority to the date of January 18, 2002 as the next best date (of their PCT application). Also, the Applicants have failed to address and/or state in their remarks where (page number and line number) in their provisional application '867 is support found for the questioned limitations of "converting" data recited in Claim 1. Hence, in view of the Applicants failure as noted herein, the priority date claim of January 18, 2002 is made final. Furthermore, there is no proper antecedent basis and/or support for the claimed subject matter in the Specification as noted in the "Specification Objections" section above.

### ***Claim Objections***

6. Claims 1 (and 2) are objected to because of the following informalities:

Limitation recited in step (a) of Claim 1 (and dependent Claim 2) needs to be reworded and Examiner has read it to be as: "gathering data regarding the quality of performance of the plurality of suppliers from a plurality of different computer databases (that are non-compatible)"; --- Note: original word in the claims was "in" and it has been now changed to "from" as shown underlined above, and the additional words of Claim 2 are shown in parentheses above. Examiner notes that the Applicant has agreed with the Examiner by its own statement: "The gathered data from the plurality

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of different computer databases is stored in a central controller.”, (emphasis added), in the remarks submitted in November 2007 (please see the middle of third paragraph on Page 2).

Claim 2 is also objected to because it contains a word --- “non-compatible” --- that is not proper English. The correct English word is “incompatible”, and the Examiner has read Claim 2 to be as: “gathering data regarding the quality of performance of the plurality of suppliers from a plurality of different computer databases that are incompatible”; (Note: changed words are shown underlined).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKay, et al. vide Publication No. US 2002/0082891 (hereinafter ‘McKay’) in view of US patent No. 6,760,731 issued to Kent W. Huff (hereinafter ‘Huff’).

Claim 1:

With respect to Claim 1, McKay teaches “a method of generating information regarding the quality of performance of a plurality of suppliers that each supply products to a vendor,” (see McKay paras [0012], [0028] and [0031])  
“gathering data regarding the quality of performance of the plurality of suppliers from a plurality of different computer databases;” (see Huff Abstract, FIG. 1 and FIG. 2, and their text description)

McKay teaches as disclosed above, but it does not teach gathering data from a plurality of different computer databases. However, Huff teaches it. It would have been obvious to an ordinary person of skill in the art at the time invention was made to modify the teachings of McKay with those of Huff about gathering data from a plurality of different computer databases. The motivation to combine these references would be to provide a more efficient, timely, and effective method for gathering data from a plurality of different computer databases.

“storing the gathered data from the plurality of different computer databases in a central controller;” (see McKay paras [0012], [0015]—[0017], [0027]—[0028], and [0030])

“converting the stored data in the central controller into a single database;”  
(see paras [0015], [0027]—[0028] and [0030]—[0031])

“utilizing the single database to generate information regarding the quality of performance of the plurality of suppliers.” (see paras [0012], [0015], [0028], and [0030]—[0031])



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Claim 2:

With respect to dependent Claim 2, McKay teaches a method of “gathering data regarding the quality of performance of the plurality of suppliers from a plurality of different computer databases that are incompatible.” (see Huff Abstract, FIG. 1 and FIG. 2, and their text description)

McKay teaches as disclosed above, but it does not teach gathering data from a plurality of different computer databases that are non-compatible. However, Huff teaches it. It would have been obvious to an ordinary person of skill in the art at the time invention was made to modify the teachings of McKay with those of Huff about gathering data from a plurality of different computer databases that are non-compatible. The motivation to combine these references would be to provide a more efficient, timely, and effective method for gathering data from a plurality of different and incompatible computer databases.

Claim 3:

With respect to dependent Claim 3, McKay teaches a method of “converting the stored data in the central controller into a single compatible database.” (see Huff C6, ~L 44-49)

McKay teaches as disclosed above, but it does not teach converting data into a ‘compatible’ database. However, Huff teaches it. It would have been obvious to an ordinary person of skill in the art at the time invention was made to modify the teachings of McKay with those of Huff about converting data into a ‘compatible’ database. The motivation to combine these references would be to provide a more efficient, timely, and effective method for gathering data from a plurality of different and incompatible computer databases.

Claim 8:

With respect to dependant Claim 8, McKay teaches a method of “processing the stored data in the single database to create a series of quality metrics and using

the series of quality metrics to judge the performance of one or more of the plurality of suppliers.” (see paras [0012], [0014]—[0017], and [0027]—[0028])

Claim 14:

With respect to dependant Claim 14, McKay teaches a method to “generate a non-conforming material report whenever a defective product is supplied to the vendor.” (see paras [0012], [0019]--[0020] and [0027]—[0031])

Claim 15:

With respect to dependant Claim 15, McKay teaches a method for “transmitting the non-conforming material report to the supplier.” (see paras [0012], [0019]--[0020] and [0027]—[0031])

Claim 16:

With respect to dependant Claim 16, McKay teaches a method for “requesting a corrective action report from the supplier whenever a non-conforming material report is generated.” (see paras [0012], [0019]--[0020] and [0027]—[0031])

Claims 4-7 and Claims 9-12

Claims 4-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKay in view of Huff as discussed in Claim 1 analysis and further in view of US Patent #6,081,840 issued to Zhao, Yan (hereinafter “Zhao”).

McKay and Huff do not teach the features of 'real time' or 'near real time' (for claims 4-7) and 'global communications network' and 'internet' (for claims 9-12). However, Zhao teaches these features. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Zhao, such as 'real time' or 'near real time' (for claims 4-7) and 'global communication network' and 'internet' (for claims 9-12) with those of McKay and Huff, because the combination of these references would allow users to have access to this data 24 hours a day on a world-wide-web (www) basis from a computer located anywhere in the world.

Claims 4-7:

With respect to "real time" or "near real time" of Claims 4-7, Zhao teaches this concept, which is recited as follows, "When any management table, collection, or content file update occurs in the source server (i.e., central controller), the source content manager 42 will send a message to the data replication manager 46 to start a data replication. The data replication manager 46 then controls the process whereby the data is copied from the source server to the local server(s). This can also be done on a scheduled basis instead of automatically (i.e., real time) as described above." (please see lines 8-15, Column 7). All other limitations of dependent Claims 4-7 have been addressed in the independent Claim 1 rejection.

McKay and Huff do not teach the features of 'real time' or 'near real time' (for claims 4-7). However, Zhao teaches these features. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Zhao, such as 'real time' or 'near real time' (for claims 4-7) with those of McKay and Huff, because the combination of these references would allow users to have access to this data instantaneously as it became available from a computer located anywhere in the world.

Claims 9-12:

With respect to "global communication network" of Claims 9-11 and "internet" of Claim 12, Zhao teaches that "The communications network 12 can be any communication network system which allows the source and local servers to communicate with each other and exchange data. The local servers 14 and 16 are connected over the communications networks 18 and 20 to the end users 22, 24, 26 and 28 as illustrated." (please see Column 4, lines 3-15) and Zhao further teaches that "The networks 18 and 20 may be the same as the network 12, or may be different. For example, communications may be by use of the Internet system between all of the components of the content distribution system, or networks outside the Internet, such as LAN's or other dedicated networks, may be used for portions of the network communications interconnecting the servers and users." (please see Column 4, lines 19-41).

McKay and Huff do not teach the features of 'global communications network' and 'internet' (for claims 9-12). However, Zhao teaches these features. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Zhao, such as 'global communication network' and 'internet' (for claims 9-12) with those of McKay and Huff, because the combination of these references would allow users to have access to this data 24 hours a day on a world-wide-web (www) basis from a computer located anywhere in the world.

Claim 13:

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKay in view of Huff as discussed above, like in Claim 1 analysis, and further in view of the QualTrend software disclosed in an article by Elizabeth M. Gruber ('Gruber'

hereinafter) titled "Enterprise Manufacturing Intelligence System" and another article titled "QualTrend FAQ's" from the website, [www.qualtrend.com](http://www.qualtrend.com) (QualTrend hereinafter), wherein it clearly shows that this "color-coding" is a known capability of the QualTrend software.

With respect to Claim 13, the "quality of performance" of any supplier is generated "using a color-coding scheme" is a known prior art and a known capability of the software package QualTrend. The QualTrend FAQ's article referenced above states, "QualTrend's Dashboard uses a red-yellow-green, "traffic light" style display for identifying areas of non-conformance to pre-defined KPI's; corrective action resources can be immediately directed to areas requiring attention. Additional custom dashboards can be created, and alarms pro-actively triggered to respond and notify anyone in the system." (please see answer to the last question at end of page 2 of the enclosed article from the QualTrend website); and this is identical when compared to this applicant's Specification from Page 6, line 29 to Page 7, line 5, wherein is described the use of "color-coding scheme" with the color "green" as "first range" (i.e., safe range), color "yellow" as "second range" (i.e., caution range), and color "red" as "third range" (i.e., danger range). Further, pursuant to 37 CFR 1.56, the Examiner respectfully notes that the inventors and/or the assignees have not disclosed all of the information material to patentability, for example, there is no explanation of how the current invention is different from the software packages described in the applicant's 12-page Specification, including QualTrend and WinSPC, and no

documentation of the capabilities of these software packages, and specifically, how the current invention improves upon the QualTrend software whose capabilities are described as an 'enterprise manufacturing intelligence system'<sup>1</sup>.

McKay and Huff do not teach the 'color-coding scheme' for rating performance of a supplier. However, Gruber and QualTrend articles teach it. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of Gruber and QualTrend, such as 'color-coding scheme' with those of McKay and Huff to rate the performance of a supplier, because the combination of these references would allow a user to view and decipher this rating data on suppliers quickly based on the color-coding scheme.

## Response to Arguments

8. Applicant's Remarks and Arguments dated November 23<sup>rd</sup>, 2007 with respect to Claims 1 -16 have been carefully considered, but they are not persuasive.

The Examiner accepts the arguments for acceptance of Drawings and the Drawings Objections are hereby withdrawn as noted above.

The Examiner respectfully disagrees with the Applicant's remarks about priority date claim objections and claim objections. As described above in the Abstract Objections, Specification Objections, Priority Date Claim Objections and Claim Objections sections, the Examiner has provided even more clarifications therein. Applicant's arguments about the priority date claim objections are not acceptable, since the Applicant has neither addressed nor stated in their remarks of November 2007

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<sup>1</sup> Per Gruber, Elizabeth in "Modern Machine Shop", May 2001, in article titled: "Enterprise Manufacturing Intelligence System". (page 207)

(latest remarks) and May 2007 (previous remarks) as to where (page number and line number) in their provisional application '867 is support found for the questioned limitations of "converting" data recited in Claim 1. This failure of the Applicant becomes even more critical, since the Examiner was unable to find support for the seven phrases in the Specification as listed above in Specification Objections section. Additionally, the Examiner clarifies that per the third definition of "gathering" from the Merriam-Webster's Dictionary online (copy attached herewith for ready reference as NPL), it is defined as: "the collecting of food or raw materials from the wild" (emphasis added), which is closest to the claimed language of Claim 1 recited as: "gathering data regarding the quality of performance of the plurality of suppliers from a plurality of different computer databases;" and the Examiner notes that the Applicant has again failed to respond to the claim objections in their remarks of November 2007 and May 2007. Furthermore, Examiner notes that the Applicant has agreed with the Examiner by its own statement: "The gathered data from the plurality of different computer databases is stored in a central controller.", (emphasis added), in the remarks submitted in November 2007 (please see the middle of third paragraph on Page 2).

The rejection of Claims 1-16 under 35 USC 103(a) by the Examiner is being maintained, and the Examiner respectfully disagrees with the arguments submitted by the Applicant. Applicant's arguments filed on 23<sup>rd</sup> November, 2007 have been fully considered, but they are not persuasive. Please see the paragraph above for the Examiner's answer to the claims objections on page 2 of the arguments.

In response to Applicant's arguments that the Huff reference is nonanalogous art (please see arguments on pages 3 and 4 in this regard starting from the first new paragraph on top of Page 3), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Huff reference is analogous art since it "discloses that genealogical data from a plurality of sources can be collected, reviewed, and displayed." (in Applicant's own words on page 4 of the arguments). Additionally, Huff reference also discloses as follows (see C 4, ~L 48-56):

- "a data status and management mechanism coupled to the normal text and graphics interface for monitoring quantity and quality of data;
- a manual keying interface coupled to the central server database for inputting and correction of data; and
- a data conversion and automated input coupled to the central server database for converting data into usable format and inputting large data files."

Further, the Applicants are informed that the references cited in the rejection of claims must be read in entirety as other passages and drawings may also apply. For example, but not limited to, to answer the Applicant's doubts about McKay's teachings, it teaches as follows (please see Abstract and Summary as a minimum, and specific lines of para [0005] are quoted below as ready reference):



"An exemplary embodiment of the invention relates to a computer-based method and system for supply chain management, and more particularly, this invention relates to a method and system for gathering and disseminating quality performance and audit activity in an extended environment. The system includes a manufacturing enterprise system comprising a host system operating a web server, an applications server, and a database manager, a data storage device in communication with the host system, and at least one terminal for accessing the host system. The manufacturing enterprise system runs on a network that is coupled to the Internet and is accessible to an outside enterprise or trading partner identified with having proper access permissions."

## **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is:

1. Ben Porat, et. al., Publication Number WO 01/ 04775 A2 claiming priority date of July 14, 1999 and titled: "A Method for Constructing a Homogeneous Electronic Catalog".
2. Wetherbee, Jonathan per US Patent #5,937,409 claiming priority date of July 25, 1997 and titled: "Integrating Relational Databases in an Object Oriented Environment".

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjeev Malhotra whose telephone number is 571-272-7292. The examiner can normally be reached on Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

11. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the

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specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

/SM/

February 6, 2008

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694